IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.A No.43 of 2000

Decided on : April 27, 2007

State of Himachal Pradesh **....Appellant.**

VERSUS

Tarsem Lal @ Sem **....Respondent.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant **:** Mr. Ashok Chaudhary, Additional Advocate General.

For the respondent **:** None.

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. State is aggrieved by the judgment of acquittal passed by the trial Court in a case, under Sections 279, 337, 338, 304-A IPC and Sections 187, 183 & 184 of the Motor Vehicles Act, which was instituted against respondent Tarsem Lal.

3. As per allegation against the respondent, on the basis of which he was prosecuted, he drove truck No.PB-07-5001 in a rash manner on 9.12.1989, while going towards Nangal Chowk and as a result thereof caused accident at a place near Dhaliara Mor, which resulted in the death of seven persons and injuries to twenty-three persons.

4. During the course of the trial, prosecution examined 11 eye-witnesses. Nine of them turned hostile and were cross-examined

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Whether the reporters of the local papers may be allowed to see the Judgment?

by the prosecution with the leave of the Court. Out of the remaining two, one (PW-1 Hari Chand), though stated in the examination-in-chief that the truck was being driven at very fast speed, in the cross-examination he said that the truck was being driven at the speed of only 10 Kms. per hour. The other witness, namely PW-2 Thilo Ram, stated that the truck was being driven properly. All the eleven witnesses stated that the accident took place because the driver could not negotiate the curve at the site of the accident. The plea taken by the respondent was that very close to the site of the accident the steering of the vehicle went free, all of a sudden, due to the breaking of some part of the steering and because of that he could not negotiate the vehicle at the curve where the accident took place. Nine witnesses, who turned hostile, as also PW-2 Thilo Ram, corroborated this plea of the respondent. Under these circumstances, no fault can be found with the order of acquittal passed by the trial Magistrate. Hence, the appeal is dismissed.

April 27, 2007(sd) **(Surjit Singh), J.**